

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 1:22-cv-409

BOBBY M. CLAY, JR.,

Plaintiff,

v.

CITY OF ROCKY MOUNT,

Defendant.

**NOTICE OF REMOVAL
OF CIVIL ACTION UNDER
28 U.S.C. § 1441 AND 1446
(Federal Question Jurisdiction)**

Guilford County Superior Court
File No. 22 CVS 4550

Defendant City of Rocky Mount removes this civil action to the United States District Court for the Middle District of North Carolina, pursuant to 28 U.S.C. §§ 1441 and 1446. In support of this removal, Defendant states:

1. On 28 April 2022, Plaintiff Bobby Clay, Jr. filed an Application and Order Extending Time to File Complaint in the General Court of Justice, Superior Court Division, for Guilford County, North Carolina (File No. 22 CVS 4550).
2. On 3 May 2022, Defendant was served a copy of the Civil Summons to be Served with Order Extending Time to File Complaint (“Extension Civil Summons”) and the Application and Order Extending Time to File Complaint by mail from Plaintiff’s counsel. Pursuant to 28 U.S.C. § 1446(a), a copy of the

Extension Civil Summons and the Application and Order Extending Time to File Complaint are attached as Exhibits A and B.

3. On 18 May 2022, Plaintiff's counsel filed a Complaint in Superior Court, Guilford County. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint is attached as Exhibit C.

4. Plaintiff asserted a claim for race discrimination under Title VII of the Civil Rights Act and retaliation under 42 U.S.C. §1981.

5. On 23 May 2022, Defendant was served a copy of the Civil Summons and Complaint by mail from Plaintiff's Counsel. Pursuant to 28 U.S.C. § 1446(a), a copy of the Civil Summons is attached as Exhibit D.

6. No other process, pleadings, or orders have been served on Defendant in this proceeding.

7. Defendant files this Notice of Removal pursuant to 28 U.S.C. § 1446. This notice of removal is being filed with the Court within 30 days of Defendant's receipt of a copy of Plaintiffs' Complaint, as required by 28 U.S.C. § 1446(b). The time for removing this action to federal court has not expired.

8. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of Superior Court, Guilford County, North Carolina promptly after the filing of this Notice, and written notice will be served on counsel for the adverse party. A copy of the Notice to State Court of Removal to Federal

Court (without attachments) is attached as Exhibit E, and a copy of the Notice of Removal to Adverse Party (without attachments) is attached as Exhibit F.

JURISDICTION

9. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because Plaintiff brings causes of action for discrimination under Title VII of the Civil Rights Act of 1964 and 42 U.S.C. § 1981. This action is removable to this Court, therefore, pursuant to 28 U.S.C. § 1441.

PENDENT JURISDICTION OVER STATE LAW CLAIMS

10. Pursuant to 28 U.S.C. § 1337, this Court has supplemental jurisdiction over any claims Plaintiff makes alleging violations of state law, because those claims are so related to the Plaintiff's federal law claims that they form part of the same case or controversy.

VENUE

11. Removal to the United States District Court for the Middle District of North Carolina is proper under 28 U.S.C. § 1441(a) because the Complaint was filed in Guilford County, North Carolina.

Defendant requests the above-described action now pending against it in the General Court of Justice, Civil Superior Court Division, for Guilford County, North Carolina be removed to the United States District Court for the Middle District of North Carolina.

This the 31st day of May 2022.

POYNER SPRUILL LLP

By: /s/ Steven A. Rowe
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*Attorneys for Defendant
City of Rocky Mount*

CERTIFICATE OF SERVICE

I certify I have electronically filed the foregoing *Notice of Removal* with the Clerk of Court by using the CM/ECF system which will send notification to all counsel and parties of record. I also certify I have served a copy by depositing in an envelope bearing sufficient postage in the United States mail, addressed to the following person at the following address:

Nancy P. Quinn
The Quinn Law Firm
315 Spring Garden St., Ste.1D
Greensboro, NC 27401
npquinn@thequinnlawfirm.com

Attorney for Plaintiff

This the 31st day of May 2022.

/s/ Steven A. Rowe
Steven A. Rowe